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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/776,400
Filing Date	February 11, 2004
First Named Inventor	Snyder
Art Unit	2178
Examiner Name	Vaughn, Gregory J.
Attorney Docket Number	XAW-0302

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☑ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☑ Other Enclosure(s) (please identify below):
  Return Post Card

Remarks

Appeal Brief in Triplicate

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Law Office of Dale B. Halling		
Signature	Dale B. Halling		
Printed name	Dale B. Halling		
Date	5/3/2007	Reg. No.	38,170

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	Theresa A. Jones		
Typed or printed name	Theresa A. Jones	Date	5/3/07

PTO/SB/17 (07-06)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005

☑ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 250.00

Complete if Known	
Application Number	10/776,400
Filing Date	February 11, 2004
First Named Inventor	Snyder
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Art Unit	Vaughn, Gregory J.
Attorney Docket No.	XAW-0302

METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	0
Design	200	100	100	50	130	65	0
Plant	200	100	300	150	160	80	0
Reissue	300	150	500	250	600	300	0
Provisional	200	100	0	0	0	0	0

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____	x _____	= _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP =	_____	x _____	= _____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($)	Multiple Dependent Claims Fee Paid ($)
_____	0

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____	/ 50 = _____ (round **up** to a whole number)	x _____	= 0

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	0
Other (e.g., late filing surcharge): Appeal Brief	250

SUBMITTED BY

Signature	Dale B. Halling	Registration No. (Attorney/Agent) 38,170	Telephone 719-447-1990
Name (Print/Type)	Dale B. Halling		Date 5/3/07

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT(S): Snyder EXAMINER: Vaughn, Gergory J

SERIAL NO.: 10/776,400 ART GROUP: 2178

FILED: February 11, 2004 Case No.: XAW-0302

ENTITLED: Text to XML Transformer and Method

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Honorable Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450 on:

5/3/07 (Dale B. Halling)

Date of Deposit Attorney of Record Signature

05/08/2007 MGEBREM1 00000109 10776400
01 FC:2402 250.00 OP

Rev. 6/93

APPEAL BRIEF

Honorable Commissioner of
Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the third rejection of claims 1-21 in the Office Action dated January 25, 2007. This application was filed on February 11, 2004. Appellant submits this Appeal Brief pursuant to 35 U.S.C. §134 and 37 C.F.R. § 41.37 in furtherance of the Notice of Appeal filed in this case on April 4, 2007. The fees required under 37 C.F.R. §1.17(b) and any other necessary fees as indicated in the accompanying Appeal Brief Transmittal Letter are attached.

I. Real Party In Interest

The real party in interest is: XAware Inc, a corporation organized and existing under the laws of the state of Colorado, and having a place of business at 1420 Austin Bluffs Parkway, Colorado Springs, CO 80918. See the License recorded at Reel 016080, Frame 0425.

II. Related Appeals And Interferences

There are no appeals or interferences related to the present appeal.

III. Status Of Claims

Claims 1-21 (see Appendix) are pending in this application. Claims 1-21 stand rejected under 35 USC 101. Claims 1-21 stand rejected under 35 USC 112, first paragraph. Claim 1-21 stand rejected under 35 USC 102(e).

IV. Status Of Amendments

No Response was filed subsequent to the rejection of January 25, 2007. There has been no resolution of the substantive rejections.

V. Summary Of Claimed Subject Matter

A concise explanation of the independent claims, 1, 14 & 19, involved in this appeal are provided below.

Claim 1

The first element of claim 1 is a transformer program which is shown in FIG.s 1, 2, 5 & 8, reference numerals 14, 22, 44 & 84. The transformer program is discussed on page 5, lines 4-7 & 23-24; page 6, lines 10-29; page 7-8, lines 7-29 & 1-27. The claim requires that the transformer program have a plurality of compound statements. This is shown in FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-29; page 8, lines 1-5, 9-26. Note that the specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command".

The next element of claim 1 is a processor, which is shown in FIG. 1, reference numeral 12 and described on page 5, lines 4-6. The claim further requires "converting an input text document into an XML document wherein the XML document does not contain every element that was in the input text". This is described on page 5, lines 6-8.

Claim 14

The first step of claim 14 is defining a transformer program. A transformer program is shown in FIG.s 1, 2, 5 & 8, reference numerals 14, 22, 44 & 84. The transformer program is discussed on page 5, lines 4-7 & 23-24; page 6, lines 10-29; page 7-8, lines 7-29 & 1-27. The transformer program has a plurality of compound statements, This is shown

in FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-29; page 8, lines 1-5, 9-26. Note that the specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command". One of the compound statements is a command that matches a regular expression and takes an action, which is shown in FIGs 5 & 8, reference numerals 50, 58, 90, 94 and discussed at page 6, lines 13-16, 24-25; and page 7, lines 11-14, lines 17-25.

The next step in the claim is to receiving a text stream, which is shown in FIGs. 1, 2, 3 & 6, reference numerals 16, 28, 40, & 80 and discussed on pages 5, lines 6-7, 14-19; page 6, lines 3-4 & 8-10; page 7, lines 4-6.

The next step in the claim is executing the transformer program (22) to convert the text stream (30) into an XML stream (32). The XML stream is shown in FIG. 2, reference numeral 34 and discussed on page 6, lines 4-6.

Claim 19

The first element of this claim is a wizard, which is shown in FIG. 2, reference element 24 and discussed on page 5, lines 24. The wizard is used to create a transformer document, reference numeral 22, FIG. 2, discussed on page 5, lines 24-26. The claim requires that the transformer document have "a plurality of compound statements formed by a text to XML computer language". This is discussed on page 5, lines 25-26. The plurality of compound statements are is shown in FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-29; page 8, lines 1-5, 9-26. Note that the

specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command". One of the compound statements is a command that matches a regular expression and takes an action, which is shown in FIG.s 5 & 8, reference numerals 50, 58, 90, 94 and discussed at page 6, lines 13-16, 24-25; and page 7, lines 11-14, lines 17-25.

The next element of the claim is a processor, which is shown in FIG. 1, reference numeral 12 and described on page 5, lines 4-6. The claim further requires "converting an input text document into an XML document wherein the XML document does not contain every element that was in the input text". This is described on page 5, lines 6-8.

VI. Grounds of Rejection to be Reviewed on Appeal

1. Whether claims 1-21 are directed to non-statutory matter under 35 USC 101?

2. Whether claims 1-21 fail to comply with the written description requirement under 35 USC 112, first paragraph?

3. Whether claims 1-21 are unpatentable under 35 USC 102(e) as being anticipated by Ye et al (US Patent Publication 2004/0083242)?

VII. Argument

Issue 1. Whether claims 1-21 are directed to non-statutory matter under 35 USC 101?

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirement of this title.

35 USC 101.

The present application is a "useful process or machine." Corporations spend millions of dollars trying to solve the problem of moving data from one system to another system – therefore this is clearly a useful invention.

The present application is clearly a machine. Software is just a way of temporarily wiring an electric circuit (computer) to perform a specific task. Electrical circuits are machines.

"MPEP 706.03(a)"

MPEP section 706.03(a) states three categories of subject matter that are non-statutory: 1) Printed Matter, 2) Naturally Occurring Article, or 3) Scientific Principle. The present application relates to computer system operating to perform a useful data conversion tool. Clearly, the application and the claims are not directed to 1) Printed Matter, 2) A Naturally Occurring Article, and 3) A Scientific Principle. Claims 1-21 are enabled by the specification and therefore must be directed to statutory matter. The Patent Office has failed to grasp the simple fact that a computer program run by a

general purpose computer could just as easily be a hardwired circuit. There is no question that a hardwired circuit is patentable. Clearly the Patent Office is still wasting everyone's time and money by not acknowledging that computer implemented **Products** are clearly statutory. A computer running a program that does not function to provide just "printed matter", is clearly a **Machine** as defined by the statute 35 USC 101.

The rejection of claims 1-21 under 35 USC 101 must be withdrawn.

Issue 2. Whether claims 1-21 fail to comply with written description requirement under 35 USC 112, first paragraph?

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

35 USC 112, first paragraph.

The Examiner has suggested in the Office Action dated January 25, 2007, page 4, paragraph 10 the phrase "compound statement" in claims 1, 14 & 19 makes the specification unclear. While the Examiner is correct that the phrase "compound statement" does not appear in the specification literally, the description of a compound statement can be found in numerous places in the specification. See FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-

29; page 8, lines 1-5, 9-26. Note that the specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command". For more information see the definition from "Wikipedia", first cited in the applicant's response dated September 29, 2006.

The present situation is analogous to an application for an electronic circuit that shows and discusses a FET transistor, but the specification only uses the phrase a switch. Clearly, claiming a FET transistor does not make the specification unclear.

The rejection of claim 1-21 must be withdrawn.

Issue 3. Whether claims 1-21 are unpatentable under 35 USC 102(e) as being anticipated by Ye et al (US Patent Publication 2004/0083242)?

"A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference." *In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Claim 1 requires an "input text file." According to Wikipedia a text file is a computer file which contains only ordinary textual characters with essentially no formatting. This is consistent with the specification of the present application, see FIG. 3 which is an example of a text file. Ye et al clearly disclose a system for converting "formatted data" see FIG. 2 of Ye and associated text.

Claim 1 furthermore requires that the "XML document does not contain every element that was in the input text." The Examiner points to paragraphs 17 & 18 of Ye (OA, 1/25/07, paragraph 13). However, paragraph 17 & 18 do not discuss not presenting the data just selecting a "different data unit".

Claim 1 also requires the transformer program have a plurality of compound statements. The Examiner suggests (OA 8/9/06 paragraph 28) that every computer program contains "executable statements." The applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. Despite this the applicant tried to clarify the language for the Examiner and clearly showed that the specification and drawings show "compound statements." According to Wilkipedia a statement may be either a "simple statement" or a "compound statement." The manner in which the present application uses the term "executable statement" is consistent with the definition of a "compound statement." Ye does not disclose the use of a "compound statements.

Note that while Ye is concerned with data conversion, he uses data location to find the data (See paragraph 96). This is inherently not possible with streaming data where the location cannot be predicted. Because the location feature is used to define where the data is located (see paragraph 108) Ye is only applicable to data presented in a display format, which is not a text file. The present application is concerned with data in a text file or streamed text file, not in a display format. Ye would not be capable of solving the problem addressed by the present application, since the data to be converted is never in a "location" or presentation format. These differences are clearly pointed out in the claims.

As outlined above numerous elements are not shown in the cited prior art. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 1 is clearly allowable.

Claim 2 requires that the input file be a structured document. According to the specification, page 5, line 15, "an example of structured text is a comma delimited file." Ye is directed to formatted data files, see Abstract. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 2 is allowable.

Claim 3 requires that the input file be a semi-structured document. According to the specification, page 5, line 16, "an example of semi-structured text is a windows initialization file used by computers." This is clearly not discussed in Ye. Claim 3 is allowable.

Claim 4 requires that the input file have at least two formats. According to the specification, page 5, line 16, "In one embodiment, the text file may contain multiple different formats. For instance, it might have a part that is comma delimited and another part that is delimited by square brackets." This is clearly not discussed in Ye. Claim 4 is allowable.

Claim 5 requires a field separator command. The Examiner points to a field separator (See OA 1/25/07, paragraph 16), but does not show a field separator command. Claim 5 is clearly allowable.

Claims 6-8 are allowable as being dependent upon an allowable base claim.

Claim 9 requires the "text to XML commands" include a tree hierarchy. First of all Ye never discloses any "text to XML commands." The Examiner's suggestion (OA 1/25/07 paragraph 18) that XML inherently has a tree structure while correct is irrelevant – this says nothing about the "text to XML commands". For instance the conversion program could be written in C commands that do not have a tree structure. Claim 9 is clearly allowable.

Claim 10 requires the input be a streaming text. The Examiner points to claims 10 & 11 Ye (OA 1/25/07 paragraph 19). Neither of these claims mention streaming or a synonym for "streaming", which is a well defined term in computer science. Not all conversion systems are capable of handling streaming data and there is no suggestion in Ye that he can handle streaming data. Claim 10 is clearly allowable.

Claim 11 also requires streaming the output XML and therefore is allowable for the same reasons as claim 10.

Claim 12 requires a wizard to define the transformer program. The Examiner points to paragraph 77. However, this paragraph does not discuss a transformer program or a wizard to help setup the transformer program. Claim 12 is allowable.

Claim 13 is allowable as being dependent upon an allowable base claim.

Claim 14 requires receiving a text stream and having an XML output stream. The Examiner points to claims 10 & 11 Ye (OA 1/25/07 paragraph 19). Neither of these claims mention streaming or a synonym for "streaming", which is a well defined term in computer science. Not all conversion systems are capable of handling streaming data and there is no suggestion in Ye that he can handle streaming data.

In addition, claim 14 requires that there be a match command that matches a "regular expression." No such match command is discussed in Ye.

Claim 14 also requires the transformer program have a plurality of compound statements. The Examiner suggests (OA 8/9/06 paragraph 28) that every computer program contains "executable statements." The applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. Despite this the applicant tried to clarify the language for the Examiner

and clearly showed that the specification and drawings show "compound statements." According to Wilkipedia a statement may be either a "simple statement" or a "compound statement." The manner in which the present application uses the term "executable statement" is consistent with the definition of a "compound statement." Ye does not disclose the use of a "compound statements.

Note that while Ye is concerned with data conversion, he uses data location to find the data (See paragraph 96). This is inherently not possible with streaming data where the location cannot be predicted. Because the location feature is used to define where the data is located (see paragraph 108) Ye is only applicable to data presented in a display format, which is not a text file. The present application is concerned with data in a text file or streamed text file, not in a display format. Ye would not be capable of solving the problem addressed by the present application, since the data to be converted is never in a "location" or presentation format. These differences are clearly pointed out in the claims.

As outlined above numerous elements are not shown in the cited prior art. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 14 is clearly allowable.

Claim 15 requires a wizard. The Examiner points to paragraph 77. However, this paragraph does not discuss a wizard. Claim 15 is allowable.

Claim 16 requires selecting a field separator command. Ye never discusses "selecting" a field separator command. Claim 16 is allowable.

Claim 17 is allowable as being dependent upon an allowable base claim.

Claim 18 requires that the input file have at least two formats. According to the specification, page 5, line 16, "In one embodiment, the text file may contain multiple different formats. For instance, it might have a part that is comma delimited and another part that is delimited by square brackets." This is clearly not discussed in Ye. Claim 18 is allowable.

Claim 19 requires a wizard for creating a transformer document. Ye never discusses a transformer document or a wizard for creating a transformer document.

Claim 19 also requires the transformer program have a plurality of compound statements. The Examiner suggests (OA 8/9/06 paragraph 28) that every computer program contains "executable statements." The applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. Despite this the applicant tried to clarify the language for the Examiner and clearly showed that the specification and drawings show "compound statements." According to Wilkipedia a statement may be either a "simple statement" or a "compound statement." The manner in which the present application uses the term "executable statement" is consistent with the definition of a "compound statement." Ye does not disclose the use of a "compound statements.

Note that while Ye is concerned with data conversion, he uses data location to find the data (See paragraph 96). This is inherently not possible with streaming data where the location cannot be predicted. Because the location feature is used to define where the data is located (see paragraph 108) Ye is only applicable to data presented in a display format, which is not a text file. The present application is concerned with data in a text file or streamed text file, not in a display format. Ye would not be capable

of solving the problem addressed by the present application, since the data to be converted is never in a "location" or presentation format. These differences are clearly pointed out in the claims.

As outlined above numerous elements are not shown in the cited prior art. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 19 is clearly allowable.

Claim 20 requires a section command. Ye never discusses a section command and the Examiner has not attempted to point to any part of Ye to show this. Claim 20 is allowable.

Claim 21 is allowable as being dependent upon an allowable base claim.

VIII. Claims Appendix

1. A text to XML transformer, comprising:

a transformer program having a plurality of compound statement; and

a processor for executing the transformer program and converting an input text document into an XML document wherein the XML document does not contain every element that was in the input text.

2. The transformer of claim 1, wherein the text document is a structured text document.

3. The transformer of claim 1, wherein the text document is a semi-structured text document.

4. The transformer of claim 1, wherein the input text document has at least two formats.

5. The transformer of claim 4, wherein the text to XML commands include a field separator command that defines a field separator in the text document.

6. The transformer of claim 5, wherein the field separator is a comma.

7. The transformer of claim 5, wherein the field separator is a regular expression.

8. The transformer of claim 4, wherein a text to XML commands include a match command that requires a field in the input text document to match a character string or a record is skipped.

9. The transformer of claim 5, wherein the text to XML commands include a tree hierarchy command.

10. The transformer of claim 1, wherein the input text document is a streaming text.

11. The transformer of claim 1, wherein the XML document is a streaming XML.

12. The transformer of claim 1, further including a wizard that has a number of queries that are used to defined the transformer program.

13. The transformer of claim 1, wherein the input text document is from a legacy system and an output is to an XML system.

14. A process for converting text to XML, comprising the steps of:

a) defining a transformer program having a plurality of compound statements, wherein one of the plurality of compound statements contains a command that matches a regular expression and takes an action;

b) receiving a text stream;

c) executing the transformer program to convert the text stream into an XML stream.

15. The process of claim 14, wherein the step (a) further includes the step of:

a1) selecting a text to XML wizard.

16. The process of claim 14, wherein step (a) further includes the steps of:

a1) selecting a field separator command that defines a field separator in the text stream.

17. The process of claim 16, wherein step (a1) further includes the steps of:

i) defining the field separator as a regular expression.

18. The process of claim 14, wherein step (b) further includes the steps of:

b1) receiving the text stream having two or more formats.

19. A text to XML transformer, comprising:

a wizard for creating a transformer document;

the transformer document having a plurality of compound statements formed by a text to XML computer language; and

a processor for executing the transformer document and converting an input text document into an XML document.

20. The transformer of claim 19, wherein the text to XML computer language includes a section command to define a section.

21. The transformer of claim 21, wherein the section command uses a regular expression match to define the section.

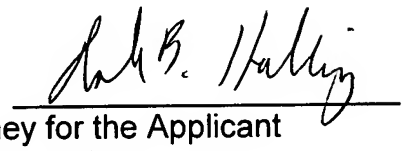
IX. Evidence Appendix

None

X. Related Proceedings Appendix

None

Respectfully submitted,
(Snyder)

By: 
Attorney for the Applicant
Dale B. Halling
Registration No. 38,170
Customer No.: 25,007
Phone: (719) 447-1990
Fax: (719) 447-9815

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT(S): Snyder EXAMINER: Vaughn, Gergory J

SERIAL NO.: 10/776,400 ART GROUP: 2178

FILED: February 11, 2004 Case No.: XAW-0302

ENTITLED: Text to XML Transformer and Method

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Honorable Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450 on:

5/3/07 (Dale B. Halling)

Date of Deposit Attorney of Record Signature

Rev. 6/93

APPEAL BRIEF

Honorable Commissioner of
Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the third rejection of claims 1-21 in the Office Action dated January 25, 2007. This application was filed on February 11, 2004. Appellant submits this Appeal Brief pursuant to 35 U.S.C. §134 and 37 C.F.R. § 41.37 in furtherance of the Notice of Appeal filed in this case on April 4, 2007. The fees required under 37 C.F.R. §1.17(b) and any other necessary fees as indicated in the accompanying Appeal Brief Transmittal Letter are attached.

I. Real Party In Interest

The real party in interest is: XAware Inc, a corporation organized and existing under the laws of the state of Colorado, and having a place of business at 1420 Austin Bluffs Parkway, Colorado Springs, CO 80918. See the License recorded at Reel 016080, Frame 0425.

II. Related Appeals And Interferences

There are no appeals or interferences related to the present appeal.

III. Status Of Claims

Claims 1-21 (see Appendix) are pending in this application. Claims 1-21 stand rejected under 35 USC 101. Claims 1-21 stand rejected under 35 USC 112, first paragraph. Claim 1-21 stand rejected under 35 USC 102(e).

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A concise explanation of the independent claims, 1, 14 & 19, involved in this appeal are provided below.

Claim 1

The first element of claim 1 is a transformer program which is shown in FIG.s 1, 2, 5 & 8, reference numerals 14, 22, 44 & 84. The transformer program is discussed on page 5, lines 4-7 & 23-24; page 6, lines 10-29; page 7-8, lines 7-29 & 1-27. The claim requires that the transformer program have a plurality of compound statements. This is shown in FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-29; page 8, lines 1-5, 9-26. Note that the specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command".

The next element of claim 1 is a processor, which is shown in FIG. 1, reference numeral 12 and described on page 5, lines 4-6. The claim further requires "converting an input text document into an XML document wherein the XML document does not contain every element that was in the input text". This is described on page 5, lines 6-8.

Claim 14

The first step of claim 14 is defining a transformer program. A transformer program is shown in FIG.s 1, 2, 5 & 8, reference numerals 14, 22, 44 & 84. The transformer program is discussed on page 5, lines 4-7 & 23-24; page 6, lines 10-29; page 7-8, lines 7-29 & 1-27. The transformer program has a plurality of compound statements, This is shown

in FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-29; page 8, lines 1-5, 9-26. Note that the specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command". One of the compound statements is a command that matches a regular expression and takes an action, which is shown in FIGs 5 & 8, reference numerals 50, 58, 90, 94 and discussed at page 6, lines 13-16, 24-25; and page 7, lines 11-14, lines 17-25.

The next step in the claim is to receiving a text stream, which is shown in FIGs. 1, 2, 3 & 6, reference numerals 16, 28, 40, & 80 and discussed on pages 5, lines 6-7, 14-19; page 6, lines 3-4 & 8-10; page 7, lines 4-6.

The next step in the claim is executing the transformer program (22) to convert the text stream (30) into an XML stream (32). The XML stream is shown in FIG. 2, reference numeral 34 and discussed on page 6, lines 4-6.

Claim 19

The first element of this claim is a wizard, which is shown in FIG. 2, reference element 24 and discussed on page 5, lines 24. The wizard is used to create a transformer document, reference numeral 22, FIG. 2, discussed on page 5, lines 24-26. The claim requires that the transformer document have "a plurality of compound statements formed by a text to XML computer language". This is discussed on page 5, lines 25-26. The plurality of compound statements are is shown in FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-29; page 8, lines 1-5, 9-26. Note that the

specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command". One of the compound statements is a command that matches a regular expression and takes an action, which is shown in FIG.s 5 & 8, reference numerals 50, 58, 90, 94 and discussed at page 6, lines 13-16, 24-25; and page 7, lines 11-14, lines 17-25.

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VI. Grounds of Rejection to be Reviewed on Appeal

1. Whether claims 1-21 are directed to non-statutory matter under 35 USC 101?

2. Whether claims 1-21 fail to comply with the written description requirement under 35 USC 112, first paragraph?

3. Whether claims 1-21 are unpatentable under 35 USC 102(e) as being anticipated by Ye et al (US Patent Publication 2004/0083242)?

VII. Argument

Issue 1. Whether claims 1-21 are directed to non-statutory matter under 35 USC 101?

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirement of this title.

35 USC 101.

The present application is a "useful process or machine." Corporations spend millions of dollars trying to solve the problem of moving data from one system to another system – therefore this is clearly a useful invention.

The present application is clearly a machine. Software is just a way of temporarily wiring an electric circuit (computer) to perform a specific task. Electrical circuits are machines.

"MPEP 706.03(a)"

MPEP section 706.03(a) states three categories of subject matter that are non-statutory: 1) Printed Matter, 2) Naturally Occurring Article, or 3) Scientific Principle. The present application relates to computer system operating to perform a useful data conversion tool. Clearly, the application and the claims are not directed to 1) Printed Matter, 2) A Naturally Occurring Article, and 3) A Scientific Principle. Claims 1-21 are enabled by the specification and therefore must be directed to statutory matter. The Patent Office has failed to grasp the simple fact that a computer program run by a

general purpose computer could just as easily be a hardwired circuit. There is no question that a hardwired circuit is patentable. Clearly the Patent Office is still wasting everyone's time and money by not acknowledging that computer implemented **Products** are clearly statutory. A computer running a program that does not function to provide just "printed matter", is clearly a **Machine** as defined by the statute 35 USC 101.

The rejection of claims 1-21 under 35 USC 101 must be withdrawn.

Issue 2. Whether claims 1-21 fail to comply with written description requirement under 35 USC 112, first paragraph?

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

35 USC 112, first paragraph.

The Examiner has suggested in the Office Action dated January 25, 2007, page 4, paragraph 10 the phrase "compound statement" in claims 1, 14 & 19 makes the specification unclear. While the Examiner is correct that the phrase "compound statement" does not appear in the specification literally, the description of a compound statement can be found in numerous places in the specification. See FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-

29; page 8, lines 1-5, 9-26. Note that the specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command". For more information see the definition from "Wikipedia", first cited in the applicant's response dated September 29, 2006.

The present situation is analogous to an application for an electronic circuit that shows and discusses a FET transistor, but the specification only uses the phrase a switch. Clearly, claiming a FET transistor does not make the specification unclear.

The rejection of claim 1-21 must be withdrawn.

Issue 3. Whether claims 1-21 are unpatentable under 35 USC 102(e) as being anticipated by Ye et al (US Patent Publication 2004/0083242)?

"A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference." *In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Claim 1 requires an "input text file." According to Wikipedia a text file is a computer file which contains only ordinary textual characters with essentially no formatting. This is consistent with the specification of the present application, see FIG. 3 which is an example of a text file. Ye et al clearly disclose a system for converting "formatted data" see FIG. 2 of Ye and associated text.

Claim 1 furthermore requires that the "XML document does not contain every element that was in the input text." The Examiner points to paragraphs 17 & 18 of Ye (OA, 1/25/07, paragraph 13). However, paragraph 17 & 18 do not discuss not presenting the data just selecting a "different data unit".

Claim 1 also requires the transformer program have a plurality of compound statements. The Examiner suggests (OA 8/9/06 paragraph 28) that every computer program contains "executable statements." The applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. Despite this the applicant tried to clarify the language for the Examiner and clearly showed that the specification and drawings show "compound statements." According to Wilkipedia a statement may be either a "simple statement" or a "compound statement." The manner in which the present application uses the term "executable statement" is consistent with the definition of a "compound statement." Ye does not disclose the use of a "compound statements.

Note that while Ye is concerned with data conversion, he uses data location to find the data (See paragraph 96). This is inherently not possible with streaming data where the location cannot be predicted. Because the location feature is used to define where the data is located (see paragraph 108) Ye is only applicable to data presented in a display format, which is not a text file. The present application is concerned with data in a text file or streamed text file, not in a display format. Ye would not be capable of solving the problem addressed by the present application, since the data to be converted is never in a "location" or presentation format. These differences are clearly pointed out in the claims.

As outlined above numerous elements are not shown in the cited prior art. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 1 is clearly allowable.

Claim 2 requires that the input file be a structured document. According to the specification, page 5, line 15, "an example of structured text is a comma delimited file." Ye is directed to formatted data files, see Abstract. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 2 is allowable.

Claim 3 requires that the input file be a semi-structured document. According to the specification, page 5, line 16, "an example of semi-structured text is a windows initialization file used by computers." This is clearly not discussed in Ye. Claim 3 is allowable.

Claim 4 requires that the input file have at least two formats. According to the specification, page 5, line 16, "In one embodiment, the text file may contain multiple different formats. For instance, it might have a part that is comma delimited and another part that is delimited by square brackets." This is clearly not discussed in Ye. Claim 4 is allowable.

Claim 5 requires a field separator command. The Examiner points to a field separator (See OA 1/25/07, paragraph 16), but does not show a field separator command. Claim 5 is clearly allowable.

Claims 6-8 are allowable as being dependent upon an allowable base claim.

Claim 9 requires the "text to XML commands" include a tree hierarchy. First of all Ye never discloses any "text to XML commands." The Examiner's suggestion (OA 1/25/07 paragraph 18) that XML inherently has a tree structure while correct is irrelevant – this says nothing about the "text to XML commands". For instance the conversion program could be written in C commands that do not have a tree structure. Claim 9 is clearly allowable.

Claim 10 requires the input be a streaming text. The Examiner points to claims 10 & 11 Ye (OA 1/25/07 paragraph 19). Neither of these claims mention streaming or a synonym for "streaming", which is a well defined term in computer science. Not all conversion systems are capable of handling streaming data and there is no suggestion in Ye that he can handle streaming data. Claim 10 is clearly allowable.

Claim 11 also requires streaming the output XML and therefore is allowable for the same reasons as claim 10.

Claim 12 requires a wizard to define the transformer program. The Examiner points to paragraph 77. However, this paragraph does not discuss a transformer program or a wizard to help setup the transformer program. Claim 12 is allowable.

Claim 13 is allowable as being dependent upon an allowable base claim.

Claim 14 requires receiving a text stream and having an XML output stream. The Examiner points to claims 10 & 11 Ye (OA 1/25/07 paragraph 19). Neither of these claims mention streaming or a synonym for "streaming", which is a well defined term in computer science. Not all conversion systems are capable of handling streaming data and there is no suggestion in Ye that he can handle streaming data.

In addition, claim 14 requires that there be a match command that matches a "regular expression." No such match command is discussed in Ye.

Claim 14 also requires the transformer program have a plurality of compound statements. The Examiner suggests (OA 8/9/06 paragraph 28) that every computer program contains "executable statements." The applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. Despite this the applicant tried to clarify the language for the Examiner

and clearly showed that the specification and drawings show "compound statements." According to Wilkipedia a statement may be either a "simple statement" or a "compound statement." The manner in which the present application uses the term "executable statement" is consistent with the definition of a "compound statement." Ye does not disclose the use of a "compound statements.

Note that while Ye is concerned with data conversion, he uses data location to find the data (See paragraph 96). This is inherently not possible with streaming data where the location cannot be predicted. Because the location feature is used to define where the data is located (see paragraph 108) Ye is only applicable to data presented in a display format, which is not a text file. The present application is concerned with data in a text file or streamed text file, not in a display format. Ye would not be capable of solving the problem addressed by the present application, since the data to be converted is never in a "location" or presentation format. These differences are clearly pointed out in the claims.

As outlined above numerous elements are not shown in the cited prior art. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 14 is clearly allowable.

Claim 15 requires a wizard. The Examiner points to paragraph 77. However, this paragraph does not discuss a wizard. Claim 15 is allowable.

Claim 16 requires selecting a field separator command. Ye never discusses "selecting" a field separator command. Claim 16 is allowable.

Claim 17 is allowable as being dependent upon an allowable base claim.

Claim 18 requires that the input file have at least two formats. According to the specification, page 5, line 16, "In one embodiment, the text file may contain multiple different formats. For instance, it might have a part that is comma delimited and another part that is delimited by square brackets." This is clearly not discussed in Ye. Claim 18 is allowable.

Claim 19 requires a wizard for creating a transformer document. Ye never discusses a transformer document or a wizard for creating a transformer document.

Claim 19 also requires the transformer program have a plurality of compound statements. The Examiner suggests (OA 8/9/06 paragraph 28) that every computer program contains "executable statements." The applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. Despite this the applicant tried to clarify the language for the Examiner and clearly showed that the specification and drawings show "compound statements." According to Wilkipedia a statement may be either a "simple statement" or a "compound statement." The manner in which the present application uses the term "executable statement" is consistent with the definition of a "compound statement." Ye does not disclose the use of a "compound statements.

Note that while Ye is concerned with data conversion, he uses data location to find the data (See paragraph 96). This is inherently not possible with streaming data where the location cannot be predicted. Because the location feature is used to define where the data is located (see paragraph 108) Ye is only applicable to data presented in a display format, which is not a text file. The present application is concerned with data in a text file or streamed text file, not in a display format. Ye would not be capable

of solving the problem addressed by the present application, since the data to be converted is never in a "location" or presentation format. These differences are clearly pointed out in the claims.

As outlined above numerous elements are not shown in the cited prior art. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 19 is clearly allowable.

Claim 20 requires a section command. Ye never discusses a section command and the Examiner has not attempted to point to any part of Ye to show this. Claim 20 is allowable.

Claim 21 is allowable as being dependent upon an allowable base claim.

VIII. Claims Appendix

1. A text to XML transformer, comprising:

a transformer program having a plurality of compound statement; and

a processor for executing the transformer program and converting an input text document into an XML document wherein the XML document does not contain every element that was in the input text.

2. The transformer of claim 1, wherein the text document is a structured text document.

3. The transformer of claim 1, wherein the text document is a semi-structured text document.

4. The transformer of claim 1, wherein the input text document has at least two formats.

5. The transformer of claim 4, wherein the text to XML commands include a field separator command that defines a field separator in the text document.

6. The transformer of claim 5, wherein the field separator is a comma.

7. The transformer of claim 5, wherein the field separator is a regular expression.

8. The transformer of claim 4, wherein a text to XML commands include a match command that requires a field in the input text document to match a character string or a record is skipped.

9. The transformer of claim 5, wherein the text to XML commands include a tree hierarchy command.

10. The transformer of claim 1, wherein the input text document is a streaming text.

11. The transformer of claim 1, wherein the XML document is a streaming XML.

12. The transformer of claim 1, further including a wizard that has a number of queries that are used to defined the transformer program.

13. The transformer of claim 1, wherein the input text document is from a legacy system and an output is to an XML system.

14. A process for converting text to XML, comprising the steps of:

a) defining a transformer program having a plurality of compound statements, wherein one of the plurality of compound statements contains a command that matches a regular expression and takes an action;

b) receiving a text stream;

c) executing the transformer program to convert the text stream into an XML stream.

15. The process of claim 14, wherein the step (a) further includes the step of:

a1) selecting a text to XML wizard.

16. The process of claim 14, wherein step (a) further includes the steps of:

a1) selecting a field separator command that defines a field separator in the text stream.

17. The process of claim 16, wherein step (a1) further includes the steps of:

i) defining the field separator as a regular expression.

18. The process of claim 14, wherein step (b) further includes the steps of:

b1) receiving the text stream having two or more formats.

19. A text to XML transformer, comprising:

a wizard for creating a transformer document;

the transformer document having a plurality of compound statements formed by a text to XML computer language; and

a processor for executing the transformer document and converting an input text document into an XML document.

20. The transformer of claim 19, wherein the text to XML computer language includes a section command to define a section.

21. The transformer of claim 21, wherein the section command uses a regular expression match to define the section.

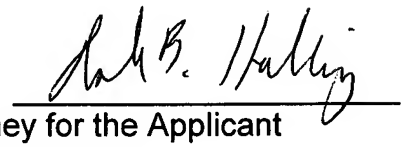
IX. Evidence Appendix

None

X. Related Proceedings Appendix

None

Respectfully submitted,
(Snyder)

By: 
Attorney for the Applicant
Dale B. Halling
Registration No. 38,170
Customer No.: 25,007
Phone: (719) 447-1990
Fax: (719) 447-9815

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT(S): Snyder EXAMINER: Vaughn, Gergory J

SERIAL NO.: 10/776,400 ART GROUP: 2178

FILED: February 11, 2004 Case No.: XAW-0302

ENTITLED: Text to XML Transformer and Method

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Honorable Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450 on:

5/3/07 (Dale B. Halling)

Date of Deposit Attorney of Record Signature

Rev. 6/93

APPEAL BRIEF

Honorable Commissioner of
Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the third rejection of claims 1-21 in the Office Action dated January 25, 2007. This application was filed on February 11, 2004. Appellant submits this Appeal Brief pursuant to 35 U.S.C. §134 and 37 C.F.R. § 41.37 in furtherance of the Notice of Appeal filed in this case on April 4, 2007. The fees required under 37 C.F.R. §1.17(b) and any other necessary fees as indicated in the accompanying Appeal Brief Transmittal Letter are attached.

I. Real Party In Interest

The real party in interest is: XAware Inc, a corporation organized and existing under the laws of the state of Colorado, and having a place of business at 1420 Austin Bluffs Parkway, Colorado Springs, CO 80918. See the License recorded at Reel 016080, Frame 0425.

II. Related Appeals And Interferences

There are no appeals or interferences related to the present appeal.

III. Status Of Claims

Claims 1-21 (see Appendix) are pending in this application. Claims 1-21 stand rejected under 35 USC 101. Claims 1-21 stand rejected under 35 USC 112, first paragraph. Claim 1-21 stand rejected under 35 USC 102(e).

IV. Status Of Amendments

No Response was filed subsequent to the rejection of January 25, 2007. There has been no resolution of the substantive rejections.

V. Summary Of Claimed Subject Matter

A concise explanation of the independent claims, 1, 14 & 19, involved in this appeal are provided below.

Claim 1

The first element of claim 1 is a transformer program which is shown in FIG.s 1, 2, 5 & 8, reference numerals 14, 22, 44 & 84. The transformer program is discussed on page 5, lines 4-7 & 23-24; page 6, lines 10-29; page 7-8, lines 7-29 & 1-27. The claim requires that the transformer program have a plurality of compound statements. This is shown in FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-29; page 8, lines 1-5, 9-26. Note that the specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command".

The next element of claim 1 is a processor, which is shown in FIG. 1, reference numeral 12 and described on page 5, lines 4-6. The claim further requires "converting an input text document into an XML document wherein the XML document does not contain every element that was in the input text". This is described on page 5, lines 6-8.

Claim 14

The first step of claim 14 is defining a transformer program. A transformer program is shown in FIG.s 1, 2, 5 & 8, reference numerals 14, 22, 44 & 84. The transformer program is discussed on page 5, lines 4-7 & 23-24; page 6, lines 10-29; page 7-8, lines 7-29 & 1-27. The transformer program has a plurality of compound statements, This is shown

in FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-29; page 8, lines 1-5, 9-26. Note that the specification uses the phrase "executable command". A compound statement is described and shown in the figures and specification and is a subcategory of an "executable command". One of the compound statements is a command that matches a regular expression and takes an action, which is shown in FIGs 5 & 8, reference numerals 50, 58, 90, 94 and discussed at page 6, lines 13-16, 24-25; and page 7, lines 11-14, lines 17-25.

The next step in the claim is to receiving a text stream, which is shown in FIGs. 1, 2, 3 & 6, reference numerals 16, 28, 40, & 80 and discussed on pages 5, lines 6-7, 14-19; page 6, lines 3-4 & 8-10; page 7, lines 4-6.

The next step in the claim is executing the transformer program (22) to convert the text stream (30) into an XML stream (32). The XML stream is shown in FIG. 2, reference numeral 34 and discussed on page 6, lines 4-6.

Claim 19

The first element of this claim is a wizard, which is shown in FIG. 2, reference element 24 and discussed on page 5, lines 24. The wizard is used to create a transformer document, reference numeral 22, FIG. 2, discussed on page 5, lines 24-26. The claim requires that the transformer document have "a plurality of compound statements formed by a text to XML computer language". This is discussed on page 5, lines 25-26. The plurality of compound statements are is shown in FIGs. 5 & 8, reference numerals 50, 52, 54, 58, 60, 62, 66, 72, 90, 94, 96, 104. This is discussed on page 5, lines 4-6 & 8-10; page 6, lines 13-16, 17-18 & 19-26; page 7, lines 11-14, 17-29; page 8, lines 1-5, 9-26. Note that the

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Issue 1. Whether claims 1-21 are directed to non-statutory matter under 35 USC 101?

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The present application is a "useful process or machine." Corporations spend millions of dollars trying to solve the problem of moving data from one system to another system – therefore this is clearly a useful invention.

The present application is clearly a machine. Software is just a way of temporarily wiring an electric circuit (computer) to perform a specific task. Electrical circuits are machines.

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MPEP section 706.03(a) states three categories of subject matter that are non-statutory: 1) Printed Matter, 2) Naturally Occurring Article, or 3) Scientific Principle. The present application relates to computer system operating to perform a useful data conversion tool. Clearly, the application and the claims are not directed to 1) Printed Matter, 2) A Naturally Occurring Article, and 3) A Scientific Principle. Claims 1-21 are enabled by the specification and therefore must be directed to statutory matter. The Patent Office has failed to grasp the simple fact that a computer program run by a

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Claim 1 requires an "input text file." According to Wikipedia a text file is a computer file which contains only ordinary textual characters with essentially no formatting. This is consistent with the specification of the present application, see FIG. 3 which is an example of a text file. Ye et al clearly disclose a system for converting "formatted data" see FIG. 2 of Ye and associated text.

Claim 1 furthermore requires that the "XML document does not contain every element that was in the input text." The Examiner points to paragraphs 17 & 18 of Ye (OA, 1/25/07, paragraph 13). However, paragraph 17 & 18 do not discuss not presenting the data just selecting a "different data unit".

Claim 1 also requires the transformer program have a plurality of compound statements. The Examiner suggests (OA 8/9/06 paragraph 28) that every computer program contains "executable statements." The applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. Despite this the applicant tried to clarify the language for the Examiner and clearly showed that the specification and drawings show "compound statements." According to Wilkipedia a statement may be either a "simple statement" or a "compound statement." The manner in which the present application uses the term "executable statement" is consistent with the definition of a "compound statement." Ye does not disclose the use of a "compound statements.

Note that while Ye is concerned with data conversion, he uses data location to find the data (See paragraph 96). This is inherently not possible with streaming data where the location cannot be predicted. Because the location feature is used to define where the data is located (see paragraph 108) Ye is only applicable to data presented in a display format, which is not a text file. The present application is concerned with data in a text file or streamed text file, not in a display format. Ye would not be capable of solving the problem addressed by the present application, since the data to be converted is never in a "location" or presentation format. These differences are clearly pointed out in the claims.

As outlined above numerous elements are not shown in the cited prior art. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 1 is clearly allowable.

Claim 2 requires that the input file be a structured document. According to the specification, page 5, line 15, "an example of structured text is a comma delimited file." Ye is directed to formatted data files, see Abstract. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 2 is allowable.

Claim 3 requires that the input file be a semi-structured document. According to the specification, page 5, line 16, "an example of semi-structured text is a windows initialization file used by computers." This is clearly not discussed in Ye. Claim 3 is allowable.

Claim 4 requires that the input file have at least two formats. According to the specification, page 5, line 16, "In one embodiment, the text file may contain multiple different formats. For instance, it might have a part that is comma delimited and another part that is delimited by square brackets." This is clearly not discussed in Ye. Claim 4 is allowable.

Claim 5 requires a field separator command. The Examiner points to a field separator (See OA 1/25/07, paragraph 16), but does not show a field separator command. Claim 5 is clearly allowable.

Claims 6-8 are allowable as being dependent upon an allowable base claim.

Claim 9 requires the "text to XML commands" include a tree hierarchy. First of all Ye never discloses any "text to XML commands." The Examiner's suggestion (OA 1/25/07 paragraph 18) that XML inherently has a tree structure while correct is irrelevant – this says nothing about the "text to XML commands". For instance the conversion program could be written in C commands that do not have a tree structure. Claim 9 is clearly allowable.

Claim 10 requires the input be a streaming text. The Examiner points to claims 10 & 11 Ye (OA 1/25/07 paragraph 19). Neither of these claims mention streaming or a synonym for "streaming", which is a well defined term in computer science. Not all conversion systems are capable of handling streaming data and there is no suggestion in Ye that he can handle streaming data. Claim 10 is clearly allowable.

Claim 11 also requires streaming the output XML and therefore is allowable for the same reasons as claim 10.

Claim 12 requires a wizard to define the transformer program. The Examiner points to paragraph 77. However, this paragraph does not discuss a transformer program or a wizard to help setup the transformer program. Claim 12 is allowable.

Claim 13 is allowable as being dependent upon an allowable base claim.

Claim 14 requires receiving a text stream and having an XML output stream. The Examiner points to claims 10 & 11 Ye (OA 1/25/07 paragraph 19). Neither of these claims mention streaming or a synonym for "streaming", which is a well defined term in computer science. Not all conversion systems are capable of handling streaming data and there is no suggestion in Ye that he can handle streaming data.

In addition, claim 14 requires that there be a match command that matches a "regular expression." No such match command is discussed in Ye.

Claim 14 also requires the transformer program have a plurality of compound statements. The Examiner suggests (OA 8/9/06 paragraph 28) that every computer program contains "executable statements." The applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. Despite this the applicant tried to clarify the language for the Examiner

and clearly showed that the specification and drawings show "compound statements." According to Wilkipedia a statement may be either a "simple statement" or a "compound statement." The manner in which the present application uses the term "executable statement" is consistent with the definition of a "compound statement." Ye does not disclose the use of a "compound statements.

Note that while Ye is concerned with data conversion, he uses data location to find the data (See paragraph 96). This is inherently not possible with streaming data where the location cannot be predicted. Because the location feature is used to define where the data is located (see paragraph 108) Ye is only applicable to data presented in a display format, which is not a text file. The present application is concerned with data in a text file or streamed text file, not in a display format. Ye would not be capable of solving the problem addressed by the present application; since the data to be converted is never in a "location" or presentation format. These differences are clearly pointed out in the claims.

As outlined above numerous elements are not shown in the cited prior art. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 14 is clearly allowable.

Claim 15 requires a wizard. The Examiner points to paragraph 77. However, this paragraph does not discuss a wizard. Claim 15 is allowable.

Claim 16 requires selecting a field separator command. Ye never discusses "selecting" a field separator command. Claim 16 is allowable.

Claim 17 is allowable as being dependent upon an allowable base claim.

Claim 18 requires that the input file have at least two formats. According to the specification, page 5, line 16, "In one embodiment, the text file may contain multiple different formats. For instance, it might have a part that is comma delimited and another part that is delimited by square brackets." This is clearly not discussed in Ye. Claim 18 is allowable.

Claim 19 requires a wizard for creating a transformer document. Ye never discusses a transformer document or a wizard for creating a transformer document.

Claim 19 also requires the transformer program have a plurality of compound statements. The Examiner suggests (OA 8/9/06 paragraph 28) that every computer program contains "executable statements." The applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. Despite this the applicant tried to clarify the language for the Examiner and clearly showed that the specification and drawings show "compound statements." According to Wilkipedia a statement may be either a "simple statement" or a "compound statement." The manner in which the present application uses the term "executable statement" is consistent with the definition of a "compound statement." Ye does not disclose the use of a "compound statements.

Note that while Ye is concerned with data conversion, he uses data location to find the data (See paragraph 96). This is inherently not possible with streaming data where the location cannot be predicted. Because the location feature is used to define where the data is located (see paragraph 108) Ye is only applicable to data presented in a display format, which is not a text file. The present application is concerned with data in a text file or streamed text file, not in a display format. Ye would not be capable

of solving the problem addressed by the present application, since the data to be converted is never in a "location" or presentation format. These differences are clearly pointed out in the claims.

As outlined above numerous elements are not shown in the cited prior art. The Examiner has clearly failed to present a prima facie case of anticipation. Claim 19 is clearly allowable.

Claim 20 requires a section command. Ye never discusses a section command and the Examiner has not attempted to point to any part of Ye to show this. Claim 20 is allowable.

Claim 21 is allowable as being dependent upon an allowable base claim.

VIII. Claims Appendix

1. A text to XML transformer, comprising:

a transformer program having a plurality of compound statement; and

a processor for executing the transformer program and converting an input text document into an XML document wherein the XML document does not contain every element that was in the input text.

2. The transformer of claim 1, wherein the text document is a structured text document.

3. The transformer of claim 1, wherein the text document is a semi-structured text document.

4. The transformer of claim 1, wherein the input text document has at least two formats.

5. The transformer of claim 4, wherein the text to XML commands include a field separator command that defines a field separator in the text document.

6. The transformer of claim 5, wherein the field separator is a comma.

7. The transformer of claim 5, wherein the field separator is a regular expression.

8. The transformer of claim 4, wherein a text to XML commands include a match command that requires a field in the input text document to match a character string or a record is skipped.

9. The transformer of claim 5, wherein the text to XML commands include a tree hierarchy command.

10. The transformer of claim 1, wherein the input text document is a streaming text.

11. The transformer of claim 1, wherein the XML document is a streaming XML.

12. The transformer of claim 1, further including a wizard that has a number of queries that are used to defined the transformer program.

13. The transformer of claim 1, wherein the input text document is from a legacy system and an output is to an XML system.

14. A process for converting text to XML, comprising the steps of:

a) defining a transformer program having a plurality of compound statements, wherein one of the plurality of compound statements contains a command that matches a regular expression and takes an action;

b) receiving a text stream;

c) executing the transformer program to convert the text stream into an XML stream.

15. The process of claim 14, wherein the step (a) further includes the step of:

a1) selecting a text to XML wizard.

16. The process of claim 14, wherein step (a) further includes the steps of:

a1) selecting a field separator command that defines a field separator in the text stream.

17. The process of claim 16, wherein step (a1) further includes the steps of:

i) defining the field separator as a regular expression.

18. The process of claim 14, wherein step (b) further includes the steps of:

b1) receiving the text stream having two or more formats.

19. A text to XML transformer, comprising:

a wizard for creating a transformer document;

the transformer document having a plurality of compound statements formed by a text to XML computer language; and

a processor for executing the transformer document and converting an input text document into an XML document.

20. The transformer of claim 19, wherein the text to XML computer language includes a section command to define a section.

21. The transformer of claim 21, wherein the section command uses a regular expression match to define the section.

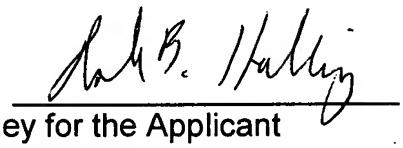
IX. Evidence Appendix

None

X. Related Proceedings Appendix

None

Respectfully submitted,
(Snyder)

By: 
Attorney for the Applicant
Dale B. Halling
Registration No. 38,170
Customer No.: 25,007
Phone: (719) 447-1990
Fax: (719) 447-9815